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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In re Applications of

THE LUTHERAN CHURCH-
MISSOURI SYNOD

For Renewal of the Licenses
of Stations KFUE/KFUE-FM,
Clayton, Missouri

) MM Docket No. 94-10

)

) File Nos. BR-890929VC

)

BRH-890929VB

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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To: The Review Board

**OPPOSITION TO MOTION
TO WAIVE PAGE LIMITATIONS ON APPEALS**

The Lutheran Church-Missouri Synod (the "Church"), by its attorneys, hereby opposes the "Motion to Waive Page Limitations on Appeals"^{1/} filed by the Missouri State Conference of Branches of the NAACP, the St. Louis Branch of the NAACP, and the St. Louis County Branch of the NAACP (collectively, the "NAACP").^{2/}

^{1/} The NAACP erroneously relies on 47 C.F.R. §1.302(e) in its request for this waiver. Sections 1.276 and 1.277 govern the filing of exceptions to initial decisions and the page limitations. See Martin Lake Broadcasting Co., 34 FCC 2d 956 n.1 (Rev. Bd. 1972).

^{2/} The NAACP has also requested a waiver of the 30-day deadline for filing "appeals" (*i.e.*, exceptions). In its "Corrected Motion," filed September 29, 1995, the NAACP correctly noted that the Church had consented to a one week extension for filing exceptions. The Church's position was stated without knowledge that the NAACP also intended to seek a waiver of the page limits. The Church is willing to consent to a 30-day extension of the deadline for filing exceptions, if the 25 page limitation is upheld, in order to permit the NAACP sufficient time to focus its arguments "on

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1. The NAACP contends that the Initial Decision (“ID”) in this proceeding, which is 42 pages in length, “is far more complex than virtually any other initial decision the Board has reviewed in recent years.” Accordingly, the NAACP “believes 40 pages are needed to do justice to the record.”

2. The NAACP has failed to cite any precedent to support extending the page limits in this case and there is no reason to extend the limits. This proceeding was not lengthy, and it is not any more complex than other routine FCC cases. In fact, there were only two issues in this case -- far fewer than in most cases -- and only one applicant which is a rarity in FCC cases. The usual FCC hearing case is a multi-party affair with numerous issues. To extend the page limits in this proceeding would open the floodgates to future requests for expanded page limits.

3. Moreover, over the years the Commission has consistently emphasized its desire to eliminate overpleading. As long ago as 1976, when the Commission adopted its Report and Order on Adjudicatory Re-regulation, 58 F.C.C.2d 865, 36 R.R.2d 1203 (1976), the Commission stressed that it was adopting numerous procedural reforms designed, *inter alia*, to promote issue-oriented briefs and advocacy while eliminating dilatoriness and overpleading. In Comparative Hearing Process, 6 F.C.C. Rcd 157, 68 R.R.2d 944 (1990), recon. granted in part, denied in part, 6 F.C.C. Rcd 3403, 69 R.R.2d 167 (1991) the Commission stated:

... to further expedite the intermediate review process, we are amending §1.277 of our Rules to further restrict the permissible length of consolidated briefs and exceptions to 25 double-spaced typewritten pages. We believe that this limitation will focus the pleadings on critical questions in the case, thereby honing the issues and fostering a more efficient disposition of appeals from IDs.

6 F.C.C. Rcd at 163.

critical questions in the case”. See Comparative Hearing Process, 6 F.C.C. Rcd 157, 163 (1990).

4. On reconsideration, the Commission continued to maintain that the 25 page limit for exceptions to initial decisions was reasonable, adding that the Review Board may grant waivers of the limit, "particularly in complex cases." It remains the policy of the Commission, however, that requests for permission to file pleadings exceeding established page limits "shall not be routinely granted." 47 C.F.R. §1.48(b).

5. The circumstances in this proceeding do not warrant a waiver of the page limitations established in Sections 1.276 and 1.277. As discussed above, the ID is not unusually lengthy and this case, unlike many others, does not involve multiple parties. Waivers of the rules establishing page limits should only be granted in compelling situations. *See, e.g., Algreg Cellular Engineering*, 9 F.C.C. Rcd 5098 (Rev. Bd. 1994).

6. Accordingly, for the reasons set forth herein, the NAACP's request to exceed the page limitations established in the Commission's rules should be denied.

Respectfully submitted,

**THE LUTHERAN CHURCH-MISSOURI
SYNOD**

By: 

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Dated: October 5, 1995

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CERTIFICATE OF SERVICE

I, MARGIE SUTTON-CHEW a secretary for the firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., do hereby certify that I have this 5th day of October 1995, caused to be hand-delivered the foregoing "**OPPOSITION TO MOTION TO WAIVE PAGE LIMITATIONS ON APPEALS**" to the following:

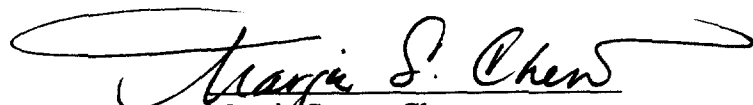
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